

**GREENPEACE**

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May 18, 2001

Donna Wieting  
Chief, Marine Mammal Conservation Division  
Office of Protected Resources  
National Marine Fisheries Service  
1315 East-West Highway  
Silver Spring, MD 20910-3225

Dear Ms. Wieting:

Greenpeace takes this opportunity to submit comments on the United States Navy's Request for a Letter of Authorization for the take of marine mammals, including cetaceans, by harassment incidental to Navy operations of the Surveillance Toward Array Sensor System Low Frequency Active (SURTASS LFA) Sonar. These comments are directed at both Alternatives 1 and 2, although the Navy's prefers Alternative 1, because both alternatives would harm protected cetacean populations.

Every day cetaceans are under numerous threats to their survival. They face threats to their existence posed by overfishing, ecosystem destruction, pollution and global warming. Countries, such as Japan and Norway, are attempting to open the world to global commercial whaling, while they continue their annual and semi-annual whale hunts. Greenpeace believes cetaceans can not and should not endure any additional stress. Furthermore, the cetaceans that will be effected by the Navy's Low Frequency Active Sonar (LFAS) system are listed on and protected by the United States Endangered Species Act, as well as the Convention for International Trade of Endangered Species (CITES), to which the United States is a party; and therefore are already acknowledged to be substantially at risk.

The threat to marine populations may be substantial. There is evidence from both Greece and Barbados that whales and dolphins are fatally effected by the use of LFAS. In May of 1996, the North Atlantic Treaty Organization (NATO) was testing the same sonar system in the Mediterranean. Twelve beaked whales were found beached in the same vicinity NATO was conducting their tests. More recently, in the Bahamas, nine out of seventeen beached whales died during US naval tests.

According to the US Marine Mammal Protection Act (MMPA), the Secretary of Commerce may grant a permit for the harassment of marine mammals, providing the action will not be detrimental to the survival of the species, as determined by the best scientific evidence. More specifically, Sec. 101(a)(3)(A) specifies that the Secretary is required to make his decision "on the basis of best scientific evidence available. . ." But

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the Navy admits that scientific evidence is unavailable to determine the effect of LFAS systems will have on cetaceans. Section 1.6, p. 5, states that the system "could potentially cause reactions by marine mammals." The Navy simply lacks sufficient scientific evidence to draw firm conclusions, so it relies instead upon assumptions and guesses. Section 3.1.1, p. 15 the Navy requests that, "[a]lthough there are no direct data on auditory thresholds for any mysticete species anatomical evidence strongly suggests that their inner ears are well adapted for LF [low frequency hearing] hearing." Again, the Navy is assuming, without evidence. The entire application is riddled with inadequate scientific evidence. Greenpeace believes in the precautionary approach; if scientific evidence is unavailable err on the side of protection of cetaceans. Additional unbiased research is essential before the National Marine Fisheries Service permits the Navy to harass cetaceans through the use of LFAS.

In addition, Sec. 101(a)(3)(A) specifies that the Secretary is required to make his decision "with due regard to the distribution, abundance, breeding habits and times and lines of migratory movements of such marine mammals. . ." Section 4.5.4 p. 55 of the Navy's application, specifies that "[n]o two individuals will react to SURTASS LFA sonar exposure the same way" indicating that regardless of any scientific research conducted, it may detrimentally effect one mammal, but not another; and thus will have, at best, unpredictable effects on cetacean populations. In addition, the Navy is unaware of the effect the LFAS system will have on cetaceans' prey, as indicated in Section 4.7.6, p. 77. Such uncertainty of the effect the sonar system will have on cetaceans indicates the Navy does not know if the system will have no effect or a fatal effect on cetaceans; therefore, should not be permitted to conduct the LFAS system.

Sec 101(a)(3)(A) of the MMPA specifies that the decision must be "in accord with sound principles of resource protection and conservation as provided in the purpose and policies of this Act." Although the Navy's monitoring system is expected to protect cetaceans from entering the vicinity of the LFAS testing, Section 4.7.1, p. 61 of the Navy's application specifies that, "[t]he percentage of animals that pass unseen is difficult to determine. . ." This is not in accord with sound principles of resource protection. In addition, the Navy proposes the use of passive acoustic detection in order to halt testing within approximately 1 km of a cetacean, (see p. 82) yet the Navy admits in Section 4.7.1, p. 69 that "[t]he effectiveness of passive acoustic detection has not been assessed quantitatively." Both monitoring systems are inadequate for detection and protection of endangered cetaceans.

In addition, under Sec 103 (c)(2) of the MMPA, restrictions of a permit applies to the size, sex or age of the animal and under Sec. 104 (b)(2)(A) requires that the issued permit specify the number and kind of animal. This type of LFAS system makes it impossible to determine the size, sex or age of the cetacean harassed; thus making it impossible to determine the effect of the LFAS on the cetacean populations.

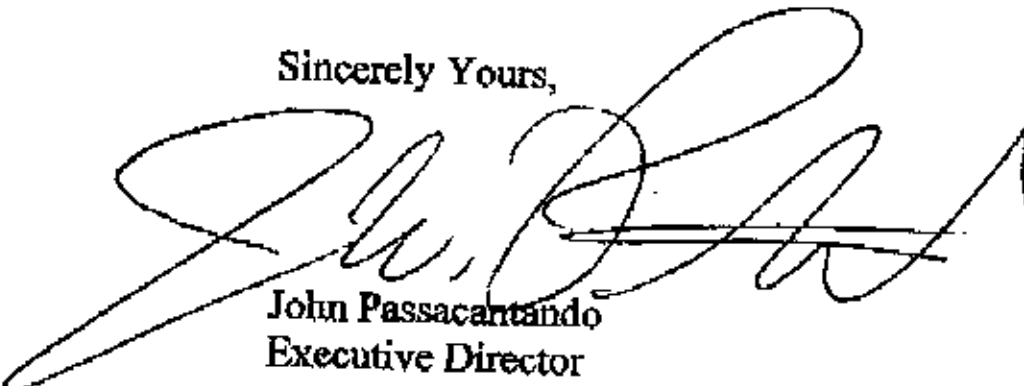
Under Sec. 103 (b) (1-4) of the MMPA, the Secretary is required to consider the effects such harassment will have on the population levels, domestic and international treaty agreements, marine ecosystem health and the conservation of fishery resources. The

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targeted cetaceans are listed as endangered on the US Endangered Species Act and the International Union of the Conservation of Nature (IUCN), as well as being protected under the Convention for the International Trade of Endangered Species. The testing in international waters breaches both United States national law and international treaty obligations.

Greenpeace strongly recommends that the National Marine Fisheries Service (NMFS) deny the Navy a permit to harass marine mammals in all oceans throughout the world. The detrimental effects of the LFAS system testing on cetaceans is unknown, yet the Navy admits it will be harmful in some places. The Navy's monitoring program will be ineffective, thus harming cetaceans and the ocean ecosystems. Furthermore, if the Navy is granted the permit, the United States government will be in breach of national laws and international agreements regarding the protection of endangered species. The NMFS is responsible for protecting the oceans, and granting the Navy's request to employ the LFAS system will undermine your obligation to the public and to endangered marine mammal populations.

Sincerely Yours,



John Passacantando  
Executive Director

c.c. Cathy C. Campbell